

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
1998 Biennial Regulatory Review --) CC Docket No. 98-94
Testing New Technology)

DOCKET FILE COPY ORIGINAL

COMMENTS OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST") hereby submits these comments in the above-captioned docket. In its Notice of Inquiry,¹ the Federal Communications Commission ("Commission") solicits comments on how it might be able to deregulate technical and market trials in order to permit the more rational introduction of new technology. The Notice properly observes that heavy governmental regulation is not particularly likely to advance the public interest in the area of the introduction or availability of new technology.²

While applauding the basic deregulatory focus of the Notice, U S WEST has one major concern with the manner in which this proceeding is progressing. It seems, at least on first reading, that the Commission is proposing to deregulate testing activities which are already deregulated -- possibly by first regulating these activities in the first instance. This is particularly true in the case of technical trials. U S WEST has never asked the Commission for permission to try out new technology in order to see whether it works, or how it can be made to perform

¹ In the Matter of 1998 Biennial Regulatory Review -- Testing New Technology, CC Docket No. 98-94, Notice of Inquiry, FCC 98-118, rel. June 11, 1998 ("Notice").

² Id. ¶ 7.

better. Technology testing which does not involve radio spectrum is simply not one of the things which the Commission regulates. The idea that governmental approval is necessary for technical experiments would be an especially pernicious one.

The same is true of market trials, although for a different reason. Market trials -- which generally can be defined as a very limited trial offering of a tariffed service to members of the general public, as opposed to technical trials, which are not tariffed and which do not extend beyond a designated trial target group -- determine the public's willingness to purchase a product at a given price.

U S WEST conducts these trials in accordance with state rules and regulations.

U S WEST's primary federal experience with a market trial -- video dialtone in Nebraska -- became almost farcical as opponents of the trial insisted that the price of the services to be trialed be based on the cost of conducting the trial.³ The ensuing delay was substantial and contrary to the public interest. As market trials are generally intrastate in nature, there is no need for federal action here either.

There is one area where market trials actually raise federal issues. When U S WEST conducts a market trial of a new enhanced service in conjunction with a new U S WEST basic telecommunications service, the Commission's Market Trial

³ In the Matter of the Application of U S WEST Communications, Inc. For Authority under Section 214 of the Communications Act of 1934, as amended, to construct, operate, own and maintain facilities and equipment to provide video dialtone service in portions of the Omaha, Nebraska service area, Order and Authorization, 9 FCC Rcd. 184, 185-186 ¶¶ 11-12 and nn. 28, 29 (1993).

Guidelines are applicable.⁴ These guidelines are complex and unnecessary. Hopefully, the Commission will take care of this problem when it adopts new regulations in CC Docket No. 95-20.⁵ When a new technological aspect of an existing enhanced service (offered under an approved CEI plan) is trialed to the public, the normal CEI rules apply and no further action is necessary. Here the normal network disclosure rules and rules dealing with pre-notification of the introduction of new interfaces apply, but little else is necessary. When CEI plans must be filed or amended, the Commission normally takes far too long to act on the filings, but, again, we hope that the new 95-20 rules will alleviate these particular delay problems.

In other words, to the extent that regulations affect trials of new technology at all, the regulations in question are state, not federal rules. The premise of the Notice -- that the Commission should take deregulatory action in the area of technical trials -- is based on an assumption which, at least in U S WEST's case, is not entirely true. The Commission's regulations currently have little impact on

⁴ In the Matter of BOC Notices of Compliance with CEI Waiver Requirements for Market Trials of Enhanced Services, Memorandum Opinion and Order, 4 FCC Rcd. 1266 (1989).

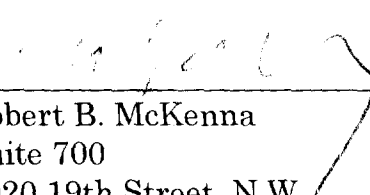
⁵ In the Matter of Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements, Further Notice of Proposed Rulemaking, 13 FCC Rcd. 6040 (1998).

U S WEST's technical or market trials. U S WEST strongly recommends that the Commission not seek to change this scenario.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

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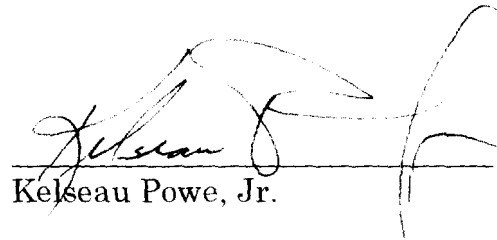
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Of Counsel,
Dan L. Poole

July 21, 1998

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 21st day of July, 1998, I have caused a copy of the foregoing **COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served, via hand delivery, upon the persons listed on the attached service list.



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International Transcription
Services, Inc.
1231 20th Street, N.W.
Washington, DC 20036

(CC98-94)
Last Update:7/21/98